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V.O

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/646,563	05/08/96	ZIMMERMANN	6783

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SECTION LAW DEPARTMENT
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LM11/0710

EXAMINER

SAX, S

ART UNIT
2773

PAPER NUMBER
4

DATE MAILED: 07/10/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	08/646565	Applicant(s)	Zimmerman et al.
Examiner	Sax	Group Art Unit	2773

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 6/29/98.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-19 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-19 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of References Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other _____

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DETAILED ACTION

1. This application has been examined.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-15 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Kosarew (5619416).
4. Regarding claim 1, Kosarew shows a method of managing electronic price label (EPL) overlay data as it changes during operation. See the abstract. The method makes a change to an EPL data file and marks it (column 2 lines 63-68 and column 3 lines 1-10), records a command to print an overlay (column 3 lines 55-68, column 4 lines 17-25), reads the EPL data file for the marked change (column 4 lines 30-55 and column 5 lines 53-65), and creates a print file for printing an overlay containing the change (column 4 lines 37-57 and column 6 lines 17-52).

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5. Regarding claim 2, in addition to the aforementioned, the method copies price look up (PLU) descriptions from a PLU file to a PLU descriptions file. (Note the discussion in column 3 regarding the price information from the tag being transmitted to a separate unique record number file to update and correlate the product description, especially in lines 35-55). Changes are made to the PLU file, a command is recorded to print an overlay as before, the PLU descriptions file and the PLU file are compared to determine a change (column 3 lines 35-55, column 5 lines 52-65 and note the updating of price and product information that compares the files for changes), and creates a print file as before.
6. Regarding claim 3, in addition to the aforementioned, the method operates multiple times to compare and update information to a master overlay file, setting up temporary files in the interim. See column 3 lines 65-68. See column 5 lines 53-68 and column 6 lines 1-52. Note the updating and creation of a temporary record number in column 5 lines 52-60. Note specifically in column 6 lines 12-16 that the record number is then no longer necessary because the master tag serial number will be programmed and correlated. See then the rest of the discussion in column 6.
7. Regarding claim 4, in addition to the aforementioned, note that the EPL file containing the PLU descriptions is created. See column 2 lines 59-68 and column 3 lines 1-20 showing the creation of the tag serial number and file information.

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8. Regarding claim 5, this shows the same features as brought out in claims 3 and 4, and is rejected for the same reasons.

9. Regarding claims 6-11, these show the system for carrying out the steps of claims 3 and 4. In addition to the aforementioned, note the apparatus discussed in column 2 lines 45-60, column 3 lines 65-68, and column 4 lines 1-12.

10. Regarding claims 12-15, the master overlay data file includes information including the PLU number, measure, unit of measure, package size, EPL serial number, and price level. See column 3 lines 9-40. The temporary file includes new and updated descriptions of products. The records are compared and updated so that the print file contains new overlay information which then is printed and stored.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 16-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kosarew (5619416).

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13. Regarding claims 16-17 and 19, in addition to the aforementioned, Kosarew does not specifically discuss the details of marking each EPL record stored in the EPL data file with one or more flags or dirty bits as each record is added or changed so that the computer operates with the overlay management program to determine the change by reading the the EPL data file for marked records using user-configurable filters that determine fields defining the 'dirtiness' of a record, but does discuss the reading, updating, and and correlating of EPL record information. Furthermore, it is common in the art to use such a flagging system that can be discriminated by a management program to pick out changes in records, for efficient reading, upgrading, and correlating of data. It would have been obvious to a person with ordinary skill in the art to use the flagging system as described, because it would provide an efficient way to use a flagging system that can be discriminated by a management program to pick out changes in records for efficient reading, upgrading, and correlating of data.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A. Johnsen (5151684) shows an electronic inventory label and security apparatus.
- B. Houdou et al (5504475) show a pricing display system.
- C. Evans et al (5510602) show an electronic singage label system.
- D. Beaudry (5518329) shows an electrographic label printing system.

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E. Briechle et al (5632010) show a technique for communicatin gwith electronic labels in a price display system.

15. Applicant's arguments filed have been fully considered but they are not persuasive. The description of applicants' invention is noted. The aforecited passages do in fact show what is claimed by applicants. Please note the applicants' claims are broad and that the upgrading and changing of EPL data files in Kosarew in fact reflects the claims as recited.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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17. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Steve Sax, whose telephone number is (703) 305-9582. The examiner can normally be reached on M - F from 9:30 - 6:00 ET. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim, can be reached at (703) 305-3821.

18. Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [\[matt.kim@uspto.gov\]](mailto:matt.kim@uspto.gov). All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark Office on February 25, 1997 at 1195 OG 89.

19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.



RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2773